vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.6379 OF 2001

Shri Ashok Malikarjun Reddy
c/o. V.S. Gade, Ratilal Chawl
791, Murarji Peth, Solapur
Dist.: Solapur ... Petitioner

V/s.

1. State of Maharashtra
through its Secretary
Tribal Development Department
Mantralaya, Mumbai-32

2. Committee for Scrutiny and
Verification of tribe claims
through its Chairman, Pune
28, Queens Garden, Pune-1

3. District Magistrate
Solapur District, Solapur

4. Tahsildar and Executive
Magistrate, North Solapur,
Dist.:Solapur

5. Chief Commissioner of Income
Tax, Bangalore ... Respondents

Mr.R.K. Mendadkar for Petitioner
Mr.C.R. Sonawane, AGP, for Respondent Nos.1 to 4
None for Respondent No.5

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

DATED: **FEBRUARY 6, 2006**

ORAL JUDGMENT (PER PALSHIKAR, ACTG.C.J.):

. By this Petition, the Petitioner has challenged the order passed by the Caste Scrutiny Committee on 21.6.2001 invalidating the caste certificate issued

earlier in favour of the Petitioner.

2. The Petitioner claimed that he belonged to a tribe called Mannervarlu. On the basis of such claim as certified by the competent authority in the year 1980, the Petitioner was employed in the Income-Tax department in the year 1980. The Petitioner got his caste verified and continued in service.

3. Thereafter, the Petitioner was considered for promotion to the post of Upper Division Clerk and, therefore, the department required him to get his claim of belonging to scheduled tribe verified again. He, therefore, approached the competent authority then existing for issue of a fresh caste certificate or certificate regarding his belonging to Mannervarlu caste. By communication dated 20.12.1992, he was informed by Tehsildar, North Solapur that he has already acquired such caste certificate from the office of Tehsildar on 15.5.1980 and there is therefore, no question of his being issued any fresh certificate.

4. The Income Tax department through the Assistant Income-Tax Commissioner by its communication dated 27.9.1995 sent the certificate of the Petitioner for verification to caste scrutiny committee. The Committee

on 27.5.1997 addressed a communication to the petitioner employer through the Assistant Income Tax Commissioner informing him that the entries in relation to the caste/tribe claim of the petitioner as made in its service records will have to be assumed as true and correct and the Committee then went on to observe that it being an exceptional situation, the opinion that the entry will have to be deemed to be true and correct cannot be considered as a certificate validating the caste claim of the Petitioner. It will not enure to the benefits of his family members and relations and, therefore, it was observed by the Committee that for such purposes it would be necessary to consider the validity of the Petitioner's certificate after obtaining the report of the Vigilance Cell enquiry by the necessary police officer and after affording the opportunity of showing the caste as required by the principles of natural justice. Thereafter on 17.12.2000, a communication was addressed by the Committee to the Petitioner requiring him to submit certain documents and his explanation if any by 10.3.2000.

5. Similar communications were issued thereafter and then the order impugned was passed. It is this order which the Petitioner has challenged in this

Petition on the following grounds:

In view of the Full Bench decision of this Court in the case of *Shikshan Prasarak Mandal, Akola & Ors. v/s. Laxmikant Balkrishna Joshi & Ors.,* **2004(1) Mh.L.J. 619,** the power to review being a creature of the statute, unless it is so specifically conferred by the statute it cannot be invoked. The submission being that the communication dated 27.5.1997 is a decision by the caste scrutiny committee which is sought to be reviewed by the impugned order and, therefore, is not permissible.

It was also contended that the appreciation of the evidence on record by the Committee is not proper and its finding of invalidating the certificate is unsustainable.

6. Insofar as the first contention is concerned, there is no doubt about the proposition of law as laid down in the Full Bench judgment of this Court. But in our opinion, what has been done by the impugned order is the validity of the caste certificate issued to the Petitioner is examined in accordance with law and it is found to be incorrect. The earlier finding that the entry in relation to the Petitioner in its service

record will have to be considered as true and correct is not interfered with. All that has been done by the impugned order is the certificate held invalid so that the Petitioner's relations or the members of his family cannot take advantage of the entry of the caste/tribe any time in future. It cannot, therefore, be said that it amounts to reviewing of the earlier order dated 27.5.1997 as it pertains to the particular entry in relation to the service of the petitioner in that book. The Committee has considered the claim of the Petitioner on material available on record and has held to be invalid. In effect, the order gives reasons for saying what it said earlier in its communication dated 27.5.1997. That certificate cannot enure to the benefit of the family members or relations of the petitioner.

7. That being so, no interference is called for. Petition dismissed.